

## **REMARKS**

This is a full and timely response to the outstanding final Office Action mailed November 29, 2005. Upon entry of the amendments in this response, claims 26 – 50 remain pending. In particular, Applicants add claims 26 – 50 and cancel claims 1 – 25 without prejudice, waiver, or disclaimer. Applicants cancel claims 1 – 25 merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicants reserve the right to pursue the subject matter of these canceled claims in a continuing application, if Applicants so choose, and do not intend to dedicate the canceled subject matter to the public. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

### **I. Claims 1 – 25 are Patentable Over *Borseth***

The Office Action indicates that claims 1 – 25 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent Number 6,340,997 (“*Borseth*”). Applicants respectfully traverse this rejection on the grounds that *Borseth* does not disclose, teach, or suggest all of the claimed elements. However, Applicants cancel claims 1 – 25 and consider this issue moot.

### **II. New Claims 26 – 50 are Patentable Over the Cited Art**

#### **A. New Claim 26 is Patentable Over the Cited Art**

Applicants add new claim 26 and submit that this claim is allowable over the cited art for at least the reason that the cited art fails to disclose, teach, or suggest:

A method, at a decoder in a subscriber television system, for determining a service group associated with the decoder, the method comprising the steps of:

(a) ***retrieving a service group table*** from a signal on the transmission medium, ***wherein the service group table includes a plurality of service group identifications, a plurality of transport stream identifications, and tuning information associated with at least one transport stream identification;***

(b) retrieving at least a portion of the tuning information from the service group table, the tuning information including at least one frequency, wherein the at least one frequency is associated with the at least one transport stream identification;

(c) tuning to a frequency retrieved from the tuning information;

(d) determining if a valid signal is present at the tuned frequency;

(e) in response to determining that a valid signal is detected at the tuned frequency, ***determining the transport stream identification associated with the tuned frequency*** and, from the determined transport stream identification, ***determining an associated service group from the service group table as the service group for the decoder;***

(f) comparing the determined service group for the decoder with a previously stored service group; and

(g) in response to a determination that the determined service group for the decoder is different than the previously stored service group, transmitting the determined service group for the decoder to a system controller. ***(emphasis added)***

Applicants respectfully submit that new claim 26 is allowable for at least the reason that the cited art fails to disclose, teach or suggest a method that includes “***retrieving a service group table*** from a signal on the transmission medium, ***wherein the service group table includes a plurality of service group identifications, a plurality of transport stream identifications, and tuning information associated with at least one transport stream identification*** [and] in response to determining that a valid signal is detected at the tuned frequency, ***determining the transport stream identification associated with the tuned frequency*** and, from the determined transport stream identification, ***determining an associated service group from the service group***

*table as the service group for the decoder*” as recited in new claim 26. More specifically, *Borseth* appears to disclose a system where “once the country code is input, the worldwide tuning system 100 automatically adjusts to the appropriate broadcast standards and group of broadcast frequencies for that country” (col. 7, line 25). However, nowhere in *Borseth* is there any discussion of “in response to determining that a valid signal is detected at the tuned frequency, *determining the transport stream identification associated with the tuned frequency* and, from the determined transport stream identification, *determining an associated service group from the service group table as the service group for the decoder*” as recited in new claim 26. For at least this reason, new claim 26 is allowable over the cited art.

**B. New Claim 31 is Patentable Over the Cited Art**

Applicants add new claim 31 and submit that this claim is allowable over the cited art for at least the reason that the cited art fails to disclose, teach, or suggest:

A method for determining a service group association of at least one decoder, comprising the steps of:

creating, at the headend, a service group table for the subscriber television system, *wherein the service group table includes a plurality of service group identifications, a plurality of transport stream identifications, and tuning information associated with at least one transport stream identification*;

causing to be transmitted, from the headend, the service group table via the transmission medium to the at least one decoder;

receiving a message, at the headend, from the least one decoder, the message including the service group associated with the at least one decoder; and

*recording, at the headend, the relationship of the decoder to the associated service group. (emphasis added)*

Applicants respectfully submit that new claim 31 is allowable for at least the reason that the cited art fails to disclose, teach or suggest a method that includes “creating, at the headend, a

service group table for the subscriber television system, *wherein the service group table includes a plurality of service group identifications, a plurality of transport stream identifications, and tuning information associated with at least one transport stream identification* [and] *recording, at the headend, the relationship of the decoder to the associated service group*” as recited in new claim 31. More specifically, *Borseth* appears to disclose a system where “once the country code is input, the worldwide tuning system 100 automatically adjusts to the appropriate broadcast standards and group of broadcast frequencies for that country” (col. 7, line 25). However, nowhere in *Borseth* is there any discussion of “creating, at the headend, a service group table for the subscriber television system, *wherein the service group table includes a plurality of service group identifications, a plurality of transport stream identifications, and tuning information associated with at least one transport stream identification*” as recited in new claim 31. For at least this reason, new claim 31 is allowable over the cited art.

C. **New Claim 34 is Patentable Over the Cited Art**

Applicants add new claim 34 and submit that this claim is allowable over the cited art for at least the reason that the cited art fails to disclose, teach, or suggest:

A modulator for transmitting a service group table in a subscriber television system, the modulator comprising:  
a means for creating a service group table, wherein the service group table *includes a plurality of service group identifications, a plurality of transport stream identifications, and tuning information associated with at least one transport stream identification*; and  
a transmitter for transmitting the service group table. (*emphasis added*)

Applicants respectfully submit that new claim 34 is allowable for at least the reason that the cited art fails to disclose, teach or suggest a modulator that includes “a means for creating a service group table, wherein the service group table ***includes a plurality of service group identifications, a plurality of transport stream identifications, and tuning information associated with at least one transport stream identification***” as recited in new claim 34. More specifically, *Borseth* appears to disclose a system where “once the country code is input, the worldwide tuning system 100 automatically adjusts to the appropriate broadcast standards and group of broadcast frequencies for that country” (col. 7, line 25). However, nowhere in *Borseth* is there any discussion of “a means for creating a service group table, wherein the service group table ***includes a plurality of service group identifications, a plurality of transport stream identifications, and tuning information associated with at least one transport stream identification***” as recited in new claim 34. For at least this reason, new claim 34 is allowable over the cited art.

**C. New Claim 38 is Patentable Over the Cited Art**

Applicants add new claim 38 and submit that this claim is allowable over the cited art for at least the reason that the cited art fails to disclose, teach, or suggest:

A decoder configured to determine an association with a service group of a subscriber television system, the decoder comprising:

a tuner for tuning to a signal received from a transmission medium;

means for retrieving a service group table from the tuned signal, wherein ***the service group table includes a plurality of service group identifications, a plurality of transport stream identifications, and tuning information associated with at least one transport stream identification***;

means for retrieving tuning information from the service group table;

means for causing the re-tuning of the tuner to at least one frequency indicated by the tuning information;

means for determining if a valid signal is present on the at least one frequency; and

***means for determining, from a transport stream identification associated with the frequency with a valid signal, a service group to which the decoder belongs. (emphasis added)***

Applicants respectfully submit that new claim 38 is allowable for at least the reason that the cited art fails to disclose, teach or suggest a decoder that includes “means for retrieving a service group table from the tuned signal, wherein ***the service group table includes a plurality of service group identifications, a plurality of transport stream identifications, and tuning information associated with at least one transport stream identification*** [and] ***means for determining, from a transport stream identification associated with the frequency with a valid signal, a service group to which the decoder belongs***” as recited in new claim 38. More specifically, *Borseth* appears to disclose a system where “once the country code is input, the worldwide tuning system 100 automatically adjusts to the appropriate broadcast standards and group of broadcast frequencies for that country” (col. 7, line 25). However, nowhere in *Borseth* is there any discussion of “***means for determining, from a transport stream identification associated with the frequency with a valid signal, a service group to which the decoder belongs***” as recited in new claim 38. For at least this reason, new claim 38 is allowable over the cited art.

#### **D. New Claim 42 is Patentable Over the Cited Art**

Applicants add new claim 42 and submit that this claim is allowable over the cited art for at least the reason that the cited art fails to disclose, teach, or suggest:

A system controller for causing to be stored and updated a database of a service group association for each of a plurality of decoders of a subscriber television system, the system controller comprising:

means for causing to be stored in the database of the service group, association for each of the plurality of decoders;

means for causing the creation of a service group table for the subscriber television system, *wherein the service group table includes a plurality of service group identifications, a plurality of transport stream identifications, and tuning information associated with at least one transport stream identification for determining a service group to which the decoder belongs*;

means for causing the headend to transmit the service group table to at least one of the plurality of decoders via the transmission medium;

means for receiving a message from the at least one of the plurality of decoders, the message including the service group associated with the at least one of the plurality of decoders; and

means for causing the updating of the database responsive to the service group associated with the at least one of the plurality of decoders being different from a stored service group association for the at least one of the plurality of decoders and for causing to be stored the updated database. *(emphasis added)*

Applicants respectfully submit that new claim 42 is allowable for at least the reason that the cited art fails to disclose, teach or suggest a system controller that includes “means for causing the creation of a service group table for the subscriber television system, *wherein the service group table includes a plurality of service group identifications, a plurality of transport stream identifications, and tuning information associated with at least one transport stream identification for determining a service group to which the decoder belongs*” as recited in new claim 42. More specifically, *Borseth* appears to disclose a system where “once the country code is input, the worldwide tuning system 100 automatically adjusts to the appropriate broadcast standards and group of broadcast frequencies for that country” (col. 7, line 25). However, nowhere in *Borseth* is there any discussion of “means for causing the creation of a service group table for the subscriber television system, *wherein the service group table*

*includes a plurality of service group identifications, a plurality of transport stream identifications, and tuning information associated with at least one transport stream identification for determining a service group to which the decoder belongs”* as recited in new claim 42. For at least this reason, new claim 42 is allowable over the cited art.

**E. New Claim 44 is Patentable Over the Cited Art**

Applicants add new claim 44 and submit that this claim is allowable over the cited art for at least the reason that the cited art fails to disclose, teach, or suggest:

A system controller for determining service group associations of a plurality of modulators in a subscriber television system, the system controller comprising:

means for storing and updating a database of frequencies, related transport stream identities, and associated service group identities for each of the plurality of modulators;

means for causing the creation of *a modulator tuning table* for the subscriber television system, the modulator tuning table including the tuning frequencies related to each of the plurality of modulators;

means for causing to be transmitted, from the headend, the modulator tuning table via the transmission medium to at least one of the set of audit designated decoders;

means for receiving a message *from at least one of the set of audit designated decoders*, the message including the related transport stream identities determined by the at least one audit designated decoder based on tuning the frequencies related to each of the plurality of modulators, locating a valid transport stream related to the tuned frequency, and retrieving a related transport stream identification from the transport stream; and

means for causing the updating of the database responsive to the related transport stream identities associated with the at least one audit designated decoder. (*emphasis added*)

Applicants respectfully submit that new claim 44 is allowable for at least the reason that the cited art fails to disclose, teach or suggest a system controller that includes “means for causing the creation of *a modulator tuning table* for the subscriber television system, the

modulator tuning table including the tuning frequencies related to each of the plurality of modulators [and] means for receiving a message *from at least one of the set of audit designated decoders*, the message including the related transport stream identities determined by the at least one audit designated decoder based on tuning the frequencies related to each of the plurality of modulators, locating a valid transport stream related to the tuned frequency, and retrieving a related transport stream identification from the transport stream” as recited in new claim 44. More specifically, *Borseth* appears to disclose a system where “once the country code is input, the worldwide tuning system 100 automatically adjusts to the appropriate broadcast standards and group of broadcast frequencies for that country” (col. 7, line 25). However, nowhere in *Borseth* is there any discussion of “means for receiving a message *from at least one of the set of audit designated decoders*, the message including the related transport stream identities determined by the at least one audit designated decoder based on tuning the frequencies related to each of the plurality of modulators, locating a valid transport stream related to the tuned frequency, and retrieving a related transport stream identification from the transport stream” as recited in new claim 44. For at least this reason, new claim 44 is allowable over the cited art.

**F. New Claim 47 is Patentable Over the Cited Art**

Applicants add new claim 47 and submit that this claim is allowable over the cited art for at least the reason that the cited art fails to disclose, teach, or suggest:

A method of using at least one of a set of designated audit decoders at specific locations within a subscriber television system to define a service group, comprising the steps of:

establishing, in the headend, a modulator tuning table listing available subscriber television system frequency associated with the plurality of modulators;

transmitting the modulator tuning table from the headend on the transmission medium to at least one of the set *of audit designated decoders*;

retrieving the modulator tuning table at the at least one audit designated decoder; tuning,

*at the at least one audit designated decoder*, to each frequencies listed in the modulator tuning table and, if a valid signal is detected, retrieving an associated Motion Picture Experts Group (MPEG) transport stream identity for the tuned frequency;

transmitting to the headend, by the at least one audit designated decoder, the retrieved associated transport stream identities for the tuned frequency associated with the at least one audit designated decoder; and

*defining as the service group the subset of modulators associated with the transport stream identities of the tuned frequencies with a valid signal of the at least one audit designated decoder* and associated with the specific location of the at least one audit designated decoder. *(emphasis added)*

Applicants respectfully submit that new claim 47 is allowable for at least the reason that the cited art fails to disclose, teach or suggest a method that includes “transmitting the modulator tuning table from the headend on the transmission medium to at least one of the set *of audit designated decoders* [and] *defining as the service group the subset of modulators associated with the transport stream identities of the tuned frequencies with a valid signal of the at least one audit designated decoder* and associated with the specific location of the at least one audit designated decoder” as recited in new claim 47. More specifically, *Borseth* appears to disclose a system where “once the country code is input, the worldwide tuning system 100 automatically adjusts to the appropriate broadcast standards and group of broadcast frequencies for that country” (col. 7, line 25). However, nowhere in *Borseth* is there any discussion of “*defining as the service group the subset of modulators associated with the transport stream identities of the tuned frequencies with a valid signal of the at least one audit designated*

*decoder* and associated with the specific location of the at least one audit designated decoder” as recited in new claim 47. For at least this reason, new claim 47 is allowable over the cited art.

**G. New Claims 27 – 30, 32 – 33, 35 – 37, 39 – 41, 43, 45 – 46, and 48 – 50 are Patentable Over the Cited Art**

In addition, new claims 27 – 30 are allowable over the cited art for at least the reason that these claims depend from allowable independent claim 26. New claims 32 – 33 are allowable over the cited art for at least the reason that these claims depend from allowable independent claim 31. New claims 35 – 37 are allowable over the cited art for at least the reason that these claims depend from allowable independent claim 34. New claims 39 – 41 are allowable over the cited art for at least the reason that these claims depend from allowable independent claim 38. New claim 43 is allowable over the cited art for at least the reason that this claim depends from allowable independent claim 42. New claims 45 – 46 are allowable over the cited art for at least the reason that these claims depend from allowable independent claim 44. New claims 48 – 50 are allowable over the cited art for at least the reason that these claims depend from allowable independent claim 47. *In re Fine, Minnesota Mining and Mfg. Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002).

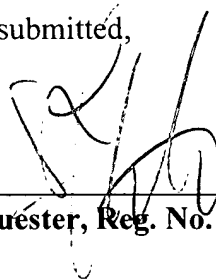
## CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Further, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



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